IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 17292-CAT of 2006

Date of Decision: 03.11.2006

Council of Scientific and Industrial Research (CSIR) and others.

.... Petitioners

Versus

Central Administrative Tribunal and another.

... Respondents

Coram : Hon'ble Mr. Justice J.S. Khehar,
Hon'ble Mr. Justice S.D. Anand.

Present : Mr. I.S. Sidhu, Advocate,
for the petitioners.

J.S. Khehar, J. (Oral)

Respondent No.2 – Interpreet Kaur participated in the process of the selection for appointment to the post of Scientist Grade IV (1) in the subject of Physics in furtherance of the posts advertised by the Council of Scientific and Industrial Research (hereinafter referred to as the `CSIR'). Having been placed at serial No.1 in the merit list, she was offered appointment to the said post, in response to which she assumed her duties as such. After two years of her appointment as Scientist Grade IV (1), her services were terminated by an order dated 5.10.2005. Dis-satisfied with the said order, respondent No.2 approached the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as the `Tribunal') and challenged the order of her termination. The Tribunal vide its order dated 2.5.2006 set aside the order dated 5.10.2005. Resultantly, the CSIR has

approached this Court by filing the instant writ petition to impugn the order of the Tribunal dated 2.5.2006.

It is not a matter of dispute that before the CSIR passed the order dated 5.10.2005, terminating the services of respondent No.2, neither any show cause notice was issued to her, nor any opportunity of hearing was afforded to her. In sum and substance, the rules of natural justice were not followed before the order dated 5.10.2005 was passed. Accordingly, it is evident that the civil rights of respondent No.2 were adversely affected by the order dated 5.10.2005, without issuing any show cause notice informing her why the contemplated action was proposed to be taken, and without affording an opportunity to respondent No.2 to repudiate the conclusions drawn by the authorities. In view of the above, the Tribunal by its order dated 2.5.2006 set aside the order of termination of the services of respondent No.2. We find no infirmity of the instant conclusion.

The Tribunal while setting aside the order of termination dated 5.10.2005 also examined the validity/genuineness thereof. In this behalf, it would be pertinent to mention that the name of respondent No.2 was short listed amongst three candidates, who were placed at the same merit position after the culmination of the written test. In this behalf, it would be pertinent to mention, that the necessity to short-list came about because it was decided that only 25 candidates were to be invited for interview. It, however, turned out that 3 candidates were jointly placed at Serial No. 24 as they had all obtained the same marks in the written test. In the process of short-listing the members for the Screening Committee had given preference to the candidate who had cleared the NET. The authorities are smelling a rat in this process of short-listing, although there is no dispute about the fairness of the

evaluation of the petitioners in the written test or the interview which was conducted by a high powered amalgam of experts. The only issue which needs determination in the present controversy is whether or not the Screening Committee was justified in its decision to short-list the three candidates with the same marks in the written test on the basis of the criterion adopted. We were informed by learned counsel for the petitioners that a student can enroll himself for a post graduation (M.A./M.Sc.) course only after acquiring the graduation (B.A./B.Sc.) qualification, in the same field. And that, only those who have acquired the post-graduate qualification, are permitted to appear for the NET. Since the candidates were all post-graduates, we are satisfied that preference given by the Screening Committee to a candidate who had cleared NET was fully justified. It is pertinent to notice, that the instant criterion adopted by the Screening Committee was assailed by the learned counsel for the petitioner by asserting, that in the process of selection the candidate at serial No. 13 had also cleared the NET, but he was not given any weightage for the same to improve his merit position. The instant contention, in our view, is based on a fallacious foundation. Respondent No.2 has not been given any marks to improve her merit ranking on the basis of the fact that she had cleared the NET. It is, therefore, clear that respondent No.2 and the candidate at serial No.3, were both not granted any marks when their overall inter se merit was determined on the basis of having cleared the NET. What has been done is, the Screening Committee adopted the criterion noticed above, to short list 25 candidates for the interview. We are satisfied that the criterion adopted was fair and reasonable as it is acknowledged that a candidate must have acquired the post graduate qualification before he is permitted to take the

NET, in that sense, therefore, it could validly be accepted that a candidate who had cleared the NET, was a step ahead of those who were merely possessing post graduate qualifications. We accordingly affirm the conclusion of the Tribunal on the instant issue as well.

It needs to be highlighted that none of the candidates who had participated in the process of selection, and had competed with respondent no.2 had challenged either the selection or the appointment of respondent No.2.

For the reasons recorded above, we find no merit in this petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

November 03, 2006
vkd

(S.D. Anand)
Judge